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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,250	08/13/2001	Brian Minear	010237	8795

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

APPIAH, CHARLES NANA

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 08/13/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/929,250

Applicant(s)

MINEAR ET AL.

12

Examiner

Charles Appiah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: It appears a "." should be inserted after "device" on line 15 of claim 9 in order to make the claim complete. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 7-17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by **Cowan (5,848,064)**.

Regarding claims 1, 8 and 16 and 20 Cowan discloses a system and a wireless device for loading and deletion of software components on a wireless device in selective communication with a wireless network (see Fig. 1), comprising: at least one wireless device (36) having one or more resident executable software applications wherein each software application includes one or more application components and application-associated data (see col. 3, lines 32-40, col. 7, lines 13-36), at least one application download server (30) on the wireless network (feature of host computer), the application server selectively communicating with the at least one wireless device and downloading software applications and application components to the one or more wireless devices

across the wireless network (see col. 3, lines 3-18). Cowan teaches the wireless device selectively prompts the application server across the wireless network for transmission of one or more application components, and installs the transmitted one or more application components such that the one or more resident applications including the installed application components are executable on the wireless device (see col. 3, lines 40-53). Cowan teaches wherein the at least one wireless device selectively deletes one or more application components of the one or more resident software applications without loss of the application-associated data prior to selectively prompting the application server across the network for transmission of one or more application components, and installs the transmitted one or more application components such that the one or more resident applications including the installed components are executable on the wireless device (mobile terminal being programmed to discard immediately the old version of each file prior to downloading the package of new files anytime there is a new version of operating software to be downloaded when the mobile is operating in the replace mode, see col. 12, lines 36-43).

Regarding claims 2-5 and 7 Cowan further shows the application-associated data includes inherently a license for use of the software application, user-specific data (inherent in memory 66 also has stored therein the current versions of the mobile terminal operating software for the various mobile terminals ..., identifies particular package of operating software which is to be utilized by the corresponding mobile terminal, see col. 8, lines 19-32), wherein the application associated data includes application components necessary to execute the application on the wireless device

(see col. 7, lines 13-36) and wherein the wireless device is a cellular telephone, and a pager (see col. 5, lines 15-25).

Claims 9, 15 and 20 which recites a method for managing the loading and deleting of components of one or more software applications resident on a wireless device and a program that directs a wireless device having a computer platform in a computer readable medium to perform a method implemented in the system of claims 1, 8 and 16 are rejected for the same reasons as set forth in the rejection of claims 1, 8 and 16 above.

Regarding claim 10, Cowan further shows wherein the step of establishing a communication link is establishing a communication link through a cellular telecommunication network (see Fig. 1, col. 5, lines 15-35).

Regarding claim 11, Cowan's teaching of discarding immediately the old version of each file prior to downloading (see col. 12, lines 39-43) would inherently read on wherein the step of establishing a communication link occurs upon the wireless device intending to execute a resident software application for which one or more associate components have been deleted, since it is inherent that without the new package of files the programs using the discarded files would not execute.

Regarding claim 12, Cowan shows the step of selectively deleting at the wireless device one or more application components of the one or more resident software application is selectively deleting the one or more application components of the one or more resident software applications at the direction of the user of the wireless device (see col. 11, line 66 to col. 12, line 19).

Regarding claim 13, Cowan further discloses wherein the step of establishing a communication link occurs upon a user of the wireless device prompting the application download server to transmit over the wireless network one or more application components for a resident software application for which one or more associated components have been deleted (see col. 12, lines 20-28).

Regarding claim 14, Cowan further discloses wherein the step of selectively deleting at the wireless device one or more resident software applications is selectively deleting the one or more application components of the one or more resident software application is determined by the wireless device (see col. 12, lines 36-43).

Regarding claims 17 and 19 Cowan further discloses wherein the wireless device is a cellular telephone, and a pager (see col. 5, lines 15-25).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cowan (5,848,064)**.

Regarding claims 6 and 18 Cowan discloses that the wireless terminal include mobile devices that can roam from cell to cell such as data terminals, telephones, pagers, etc., and that other types of mobile devices are contemplated (see col. 5, lines 15-25), but fails to explicitly teach that the wireless terminal is a personal digital assistant.

The use of a personal digital assistant (PDA) in a cellular communication network is very well known in the art and as such examiner takes Official notice that it would have been obvious to one of ordinary skill in the art to use a PDA in the cellular communication system of Cowan in order to provide the advantages of a PDA such as the capability of performing specific tasks like an electronic diary, carry-along personal database, multimedia player, personal communicator, memo taker and so on, to a user.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Halliwell et al. (5,473,772) discloses a data processing network with the capability of replacing out-of-date files with updated files.

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Kullick et al. (5,764,992) discloses a method for automatic software replacement in a computer network.

Liu et al. (US 2002/0092011) discloses an arrangement for updating software and other data in managed devices.


Hsu et al. (6,587,684) a method for downloading software to a digital telephone.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Appiah whose telephone number is 703 305-4772. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703 305-6739. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703 308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 306-0377.

CA
August 8, 2003


CHARLES APPIAH
PRIMARY EXAMINER